

HOUSE BILL 1831

By Clemmons

AN ACT to amend Tennessee Code Annotated, Title 10, Chapter 7; Title 38, Chapter 1 and Title 39, Chapter 16, relative to law enforcement recording devices.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 38, Chapter 1, is amended by adding the following language as a new part:

38-1-801.

(a) A law enforcement agency in any county having a metropolitan form of government and a population of not less than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census, shall, by February 10, 2021:

(1) Issue a law enforcement body camera to each law enforcement officer employed by the agency while the officer is on duty; and

(2) Equip each patrol car used by the law enforcement agency with an audio and video recording device.

(b) A law enforcement officer issued a law enforcement recording device pursuant to this section shall operate the law enforcement recording device while on duty in accordance with policies and procedures established by the chief law enforcement officer of the agency that issued the device.

38-1-802.

For purposes of this part:

(1) "Evidentiary data" means data of an incident or encounter that could prove useful for investigative purposes, including a crime, an arrest or citation, a

search, a use of force incident, or a confrontational encounter with a member of the public;

(2) "Law enforcement body camera" or "body camera" means a device worn on a law enforcement officer's body that records both audio and video data;

(3) "Law enforcement officer" means any person employed by a municipality or political subdivision of this state whose primary responsibility is the prevention and detection of crime, the apprehension of offenders, and who routinely interacts with the public while on duty;

(4) "Law enforcement recording device" means a law enforcement body camera or an audio or video recording device installed on a patrol car;

(5) "Nonevidentiary data" means data that does not have value to aid in an investigation or prosecution, such as data of an incident or encounter that does not lead to an arrest or citation, or data of general activities the law enforcement officer performs while on duty; and

(6) "Patrol car" means a ground vehicle used by a law enforcement officer while on duty.

38-1-803.

(a) The chief law enforcement officer of a local law enforcement agency issuing a law enforcement recording device pursuant to § 38-1-801 shall develop and implement policies and procedures regarding the use of the law enforcement recording device. The chief law enforcement officer shall solicit community input on the policies and procedures adopted pursuant to this section.

(b) When establishing policies and procedures for the implementation and operation of a law enforcement recording device pursuant to subsection (a) the chief law enforcement officer shall:

(1) Designate a person responsible for downloading data created by a law enforcement recording device;

(2) Establish when data created by a law enforcement recording device must be downloaded, and procedures for proper storage of the data;

(3) Establish procedures to ensure law enforcement recording devices are properly maintained;

(4) Establish policies to prevent tampering, deleting, and copying, including prohibiting the unauthorized use, duplication, or distribution of data created by the law enforcement recording device;

(5) Establish a policy regarding the chain of custody for data created by a law enforcement recording device; and

(6) Establish a policy regarding the length of time that recorded data is to be stored.

(c) A law enforcement agency shall maintain nonevidentiary audio and video data recorded by a law enforcement recording device for a minimum of sixty (60) days, after which time the recording may be erased, destroyed, or recycled.

(d) A law enforcement agency shall maintain evidentiary audio and video data recorded by a law enforcement recording device for a minimum of two (2) years under any of the following circumstances:

(1) The recording is of an incident involving the use of force by a law enforcement officer or an officer-involved shooting;

(2) The recording is of an incident that leads to the detention or arrest of an individual; or

(3) The recording is relevant to a formal or informal complaint against a law enforcement officer or a law enforcement agency.

(e) If evidence that may be relevant to a criminal prosecution is obtained from a recording made by a law enforcement recording device, the law enforcement agency

must retain the recording for any time in addition to that specified in subsections (b) and (c), and in the same manner as is required by law for other evidence that may be relevant to a criminal prosecution.

38-1-804.

(a) It is an offense for a person, with the intent to prevent the creation of evidence, to turn off, disable, fail to turn on, or operate a law enforcement recording device in any manner that violates the policies and procedures established by the law enforcement agency that issued the device.

(b) A violation of this section is a Class C felony.

SECTION 2. Tennessee Code Annotated, Section 39-16-503(a), is amended by adding the following language as a new subdivision (3):

(3) Alter, destroy, or conceal any audio or video recording from a law enforcement recording device, as defined in § 38-1-802, with the intent to impair the recording's availability as evidence in an investigation or official proceeding.

SECTION 3. Tennessee Code Annotated, Section 10-7-504(u)(1), is amended by deleting the language "Video taken by a law enforcement body camera that depicts the following shall be treated as confidential and not subject to public inspection:" and substituting instead the language "Video taken by a law enforcement body camera is at all times during business hours open for personal inspection by any citizen of this state, unless the video depicts the following, and then it shall be held as confidential:".

SECTION 4. Tennessee Code Annotated, Section 10-7-504(u), is amended by deleting subdivision (5).

SECTION 5. This act shall take effect July 1, 2020, the public welfare requiring it.